

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOESPH REINTHALER,

Petitioner,

v.

DAVID W. GRAY, Warden,

Respondent.

CASE NO. 4:19 CV 00279

JUDGE DONALD C. NUGENT

ORDER ADOPTING
REPORT AND RECOMMENDATION

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. The Report and Recommendation (ECF #15) is hereby ADOPTED. Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on February 6, 2019 challenging the constitutionality of his guilty plea and sentences. The Petition alleges six grounds for relief centered around allegations of denial of due process of law and ineffective assistance of trial and appellate counsel. (ECF #1). Petitioner also alleges that he is actually innocent despite his guilty plea. (ECF #1). Magistrate Judge Baughman found that the Petitioner's claims were procedurally defaulted and/or otherwise lacked merit. He, therefore, recommended that the Petition be denied. The Petitioner sought and received an extension of time within which to file his objections to the to the Magistrate's Report and Recommendation, and he filed his objections within the time granted by the extension. (ECF #16, 17, 18).

The Court reviewed *de novo* those portions of the Magistrate Judge's Report and

Recommendation to which Petitioner objects. *See* FED. R. CIV. P. 72(b). The Court finds Magistrate Judge Baughman's Report and Recommendation to be thorough, well-written, well-supported, and correct. The Court finds that Petitioner's objections raise no arguments (factual or legal) that have not been fully addressed by the Magistrate's Report and Recommendation.

The Magistrate's Report and Recommendation fully and correctly addresses all of the Petitioner's claims, and the Petitioner's objections are unwarranted. The Magistrate specifically explained why Petitioner's failure to timely appeal the findings of the Seventh Appellate District to the Supreme Court of Ohio resulted in procedural default of his grounds for relief regarding the alleged violations of due process. He also correctly determined that Petitioner's ineffective assistance of trial and appellate counsel and insufficiency of the evidence claims were defaulted because Petitioner did not raise them in state court or did not otherwise exhaust his state court remedies. Further, the Magistrate correctly found that Petitioner's claim of actual innocence is not cognizable in federal habeas proceedings. This Court, therefore, adopts the Magistrate's Report in its entirety, over the Petitioner's objections.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b). Petitioner's motion for habeas corpus is hereby DISMISSED because it presents claims that are either defaulted or are not cognizable on federal habeas review. IT IS SO ORDERED.

DATED: March 12, 2020


DONALD C. NUGENT
United States District Judge